

JOE WARDY
MAYOR



CITY COUNCIL

SUSAN AUSTIN
DISTRICT NO. 1

ROBERT A. CUSHING, JR.
DISTRICT NO. 2

JOSE ALEXANDRO LOZANO
DISTRICT NO. 3

JOHN F. COOK
DISTRICT NO. 4

DANIEL S. POWER
DISTRICT NO. 5

PAUL J. ESCOBAR
DISTRICT NO. 6

VIVIAN ROJAS
DISTRICT NO. 7

ANTHONY W. COBOS
DISTRICT NO. 8

REGULAR COUNCIL MEETING
COUNCIL CHAMBERS
JANUARY 13, 2004
9:00 A.M.

The City Council met in regular session at the above place and date. Mayor Joe Wardy present and presiding and the following Council Members answered roll call: Susan Austin, Robert A. Cushing, Jr., Jose Alexandro Lozano, John F. Cook, Daniel S. Power, Paul J. Escobar, Vivian Rojas, and Anthony W. Cobos. Absent: None. Meeting was called to order at 9:10 a.m. and the invocation was given by Chaplain Carlos Flores, followed by the Pledge of Allegiance to the Flag of the United States of America.

MAYOR'S PROCLAMATION

1. *Military Order of the World Wars Day*

No action was taken on the Martin Luther King Humanitarian Awards Recipients.
[Parks and Recreation, Wayne Thornton, (915) 533-3311]

Mr. Thornton presented Mr. Cody Downing and Ms. Priscilla Dominguez as the youth award recipients and Mr. Phil Hatch as the adult recipient. He presented gifts to Representative Lozano and Mayor Wardy.

No action was taken on Presentation on the upcoming Socorro ISD's \$188.7 million bond election on January 24, 2004. [Linda East, Chair of Pro Socorro Schools Committee]

Ms. East encouraged voters living within the Socorro Independent School District to vote in favor of the bonds.

Dr. Robert Duron, Superintendent of Socorro Independent School District, commented that the District had experienced rapid growth, with a current enrollment of 33,000, and thanked the Council Members and Mayor for their support.

NOTE: This item was discussed together with the Resolution of the City Council of the City of El Paso, Texas encouraging registered voters to vote in the Socorro Independent School District 2004 Bond Election.

*Motion made by Representative Cobos, seconded by Representative Escobar and unanimously carried to delete the discussion and action to 1) censure Mayor Joe Wardy for violating the 10 day rule and refusing to release the results of the validation of the Paul Escobar recall petition submitted on December 29th and 2) place the recall of Paul Escobar on the next election pursuant to City Charter and Ordinance governing recalls that mandates such action when 20% of the number of people that voted in the last election sign a recall petition. The recall petition contained 32% of that number.

[Robert Barragan, Citizens for Responsive Government]

Motion made by Representative Cook, seconded by Representative Rojas and unanimously carried to recess City Council Meeting at 9:27 a.m. to discuss the Mass Transit Department Board Agenda.

Motion made by Representative Cook, seconded by Representative Escobar and unanimously carried to reconvene the City Council Meeting at 9:44 a.m. from the Mass Transit Department Board Meeting.

Motion made by Representative Cobos, seconded by Representative Cook and unanimously carried to approve, as revised, all matters listed under the Consent Agenda unless otherwise noted.

(Items approved, postponed, or deleted pursuant to the vote on the Consent Agenda will be shown with an asterisk {*}).

*Motion made, seconded and unanimously carried to postpone one (1) week the approval of Minutes for Regular City Council Meetings of January 2, and January 6, 2004.

***RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Cooperative Work Study Contract between the **CITY OF EL PASO** and **OSCAR SEVILLA** to assist the Arts & Culture Department at \$8.67 per hour not to exceed 20 hours per week without permission from the Co-Op Coordinator, in which case student may work up to 40 hours per week. The term of the contract shall be for the period of January 20, 2004 through August 31, 2004.

Motion made, seconded and unanimously carried to move to the regular agenda the following:

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the Mayor be authorized to sign an Official Request by MBIA, Municipal Investors Service Corporation to become the Authorized Financial Dealer for Investment Transactions for the City of El Paso.

Representative Cushing asked Mr. Bill Chapman, Deputy Chief Administrative Officer for Financial and Administrative Services, for clarification.

Mr. Chapman explained that the City utilized various investment pools and that the rate of return was higher with MBIA.

Motion made by Representative Cushing, seconded by Representative Cook and unanimously carried to approve the above Resolution.

Motion made by Representative Cushing, seconded by Representative Escobar and unanimously carried to postpone one (1) week the Resolution that the Mayor be authorized to sign a Business Account Authorization Agreement, along with any modifications to that Agreement, between Morgan Stanley DW, Inc., Morgan Stanley Dean Witter Commercial Services, Inc. and the City of El Paso authorizing Morgan Stanley DW, Inc. to open a BusinessScape Account in the name of the City, and to obtain and borrow at any time and from time to time under, any commercial line of credit that may be extended, and/or term loan that may be made or any other financial accommodation, financial service or extension of credit, by Morgan Stanley Dean Witter Commercial Financial Services, Inc. to the City, subject to the terms and conditions set forth in the Agreement.

Representative Cook moved to approve.

Mr. Bill Chapman, Deputy Chief Administrative Officer for Financial and Administrative Services, provided explanation. He answered questions from and responded to comments made by the Council Members.

Representative Austin asked financial questions of Mr. Chapman and legal questions of Ms. Lisa A. Elizondo, City Attorney.

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***RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign the following special events agreement for space in the El Paso Museum of Art.

Event: Dinner
Licensee: Border Learning Conference
Date: February 12, 2004
Time: 6:00 p.m. - 9:00 p.m.
Area(s): Special Events
Charge for Space: \$1,200.00
Charge for Staff (est): \$320.00
Charge for Insurance: (carry their own)

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***RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign the following special events agreement for space in the El Paso Museum of Art. Licensee is requesting permission to serve alcohol in the premises.

Event: Dinner
Licensee: Mrs. Phyllis Steinhart
Date: February 28, 2004
Time: 6:00 p.m. - 10:00 pm.
Area(s): Special Events
Charge for Space: \$1,500.00
Charge for Staff (est.): \$320.00
Charge for Insurance: \$80.00

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***RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign an Agreement granting an Underground Electrical Easement to the El Paso Electric Company on Franklin Hills Unit 3, Amending Plat, El Paso County, Texas.

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***RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Cooperative Work Study Contract between the **CITY OF EL PASO** and **ROCIO ORTIZ** as a Library Assistant for the El Paso Public Library at an hourly rate of \$5.57 per hour not to exceed 20 hours per week without permission from the Co-Op Coordinator, in which case student may work up to 40 hours per week. Employee may be required to use own vehicle to travel to different Library branches and will be reimbursed for mileage at a rate of \$.36 per mile, not to exceed 150 miles per week or a total of \$54.00 per week. The term of the contract shall be for the period of January 14, 2004 through January 13, 2005.

***RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Cooperative Work Study Contract between the **CITY OF EL PASO** and **HECTOR MANUEL ADAME** as a Library Assistant for the El Paso Public Library at \$5.57 per hour, not to exceed 20 hours per week without permission from the Co-Op Coordinator, in which case student may work up to 40 hours per week. Employee may be required to use own vehicle to travel to different Library branches and will be reimbursed for mileage at a rate of \$.36 per mile, not to exceed 150 miles per week or a total of \$54.00 per week. The term of the contract shall be for the period of January 14, 2004 through January 13, 2005.

Motion made, seconded and unanimously carried to move to the regular agenda the following:

RESOLUTION

WHEREAS, section 12.85.110 of the City of El Paso Municipal Code indicates, in pertinent part, that the City Council shall, by resolution, adopt a schedule of standard fines for various parking and stopping offenses; and

WHEREAS, a revision of said schedule of standard fines is warranted;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Council hereby adopts the attached revised schedule of standard fines for various parking and stopping offenses. Said revised schedule is to be effective on March 1, 2004.

SCHEDULE "A"
(INCLUDES \$2.00 COURT COSTS)

GROUP A \$10.00

521	EXPIRED METER
503	OVER TIME LIMIT
524	HOTEL ZONE-PARKING
526	BUFFER ZONE
501	SLUGS IN PARKING METER

GROUP B \$25.00

504	PARK ON BUS OR TAXI STAND
525	OTHER OVERTIME
530	PASSENGER LOADING ZONE

532 LOADING ZONE: GENERAL OVER 30 MINUTES
533 LOADING ZONE: COMMERCIAL VEHICLE OVER 30 MINUTES
534 MORE THAN ONE METER SPACE
535 OVER 18" FROM CURB
536 LOADING ZONE: NOT COMMERCIAL VEHICLE
556 WITHIN 30' OF STOP SIGN / STOP LIGHT
564 PARK-FUNERAL ZONE

GROUP C \$50.00

551 DOUBLE PARKING
552 WRONG SIDE OF STREET
553 NO PARKING ZONE

GROUP D \$115.00

555 FIRE LANE

GROUP E \$250.00

549 HANDICAPPED ZONE / NO PERMIT/BLOCKING

GROUP F \$202.00

502 PARKING PROHIBITED / OVER SIZE

GROUP G \$47.00

508 PARKING WITHIN 20' OF FIRE STATION
509 PARKING WITHIN 50' OF RAILROAD CROSSING
548 PARKING ON EASEMENT
559 PARKING ON SIDEWALK
560 PARKING ON CROSSWALK/W 20' OF CROSSWALK
561 PARK WITHIN 15' OF FIRE HYDRANT
562 OBSTRUCT BY IMPROPER PARKING (ALLEY)
563 BLOCKING DRIVEWAY
565 PARKING ON MEDIAN
568 PARKING ON BRIDGE

GROUP H \$77.00

510 PARKING ON CITY PROPERTY

Representative Austin provided copies of documents for Council Member's information (on file in the City Clerk's office) and commented on Exhibit 9 specifically.

Mr. Bill Chapman, Deputy Chief Administrative Officer for Financial and Administrative Services, gave copies of additional documents for Council Member's information (on file in the City Clerk's office) and provided financial advice. He recommended Council Members approve Exhibit 2A.

Representative Cook moved to approve based on the Financial and Administrative Services Department recommendations as submitted. Representative Power seconded.

Ms. Richarda Duffy Momsen, City Clerk, reiterated that three amendments had been approved at the City Council meeting of January 6, 2004, prior to Council's action to postpone the item.

Representative Cook moved to incorporate the amendments into the Financial and Administrative Services Department's recommendations.

Representatives Austin and Cushing asked questions of Mr. Bill Chapman, Deputy Chief Administrative Officer for Financial and Administrative Services.

Motion made by Representative Austin, seconded by Representative Cushing and carried to deny the Resolution adopting new fees for Zoning Applications, Special Use Permits, Detailed Site Development Plans, Special Contracts, Right of Way Dedications, Street Name Changes, Master Plan Technical Reports, Maps and other related documents.

- AYES: Representatives Austin, Cushing, Lozano and Escobar
- NAYS: Representatives Cook and Rojas
- NOT PRESENT: Representatives Power and Cobos

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Motion made, seconded and unanimously carried to move to the regular agenda the Resolution adopting new fees for Subdivision and related applications and procedures required by Title 19 (Subdivisions) of the El Paso Municipal Code.

Motion made by Representative Austin, seconded by Representative Cushing and carried to deny the Resolution adopting new fees for Subdivision and related applications and procedures required by Title 19 (Subdivisions) of the El Paso Municipal Code.

- AYES: Representatives Austin, Cushing and Lozano
- NAYS: Representatives Cook, Escobar, Rojas and Cobos
- NOT PRESENT: Representative Power

Motion failed.

Mr. Ray Aauto, El Paso Association of Builders, requested that the fees be rounded to the nearest \$5.00.

Representatives Cook and Lozano commented on City staff becoming more responsive to the needs of the development community and customer service.

Motion made by Representative Austin, seconded by Representative Cushing and carried to approve the Resolution below as amended.

- AYES: Representatives Austin, Cushing, Cook, Escobar, Rojas and Cobos
- NAYS: Representative Lozano
- NOT PRESENT: Representative Power

RESOLUTION ADOPTING NEW FEES FOR ZONING APPLICATIONS, SPECIAL USE PERMITS, DETAILED SITE DEVELOPMENT PLANS, STREET NAME CHANGE, SPECIAL CONTRACT AMENDMENT, RIGHT-OF-WAY BY METES AND BOUNDS DEDICATION, AND RELATED PUBLIC DOCUMENTS SOLD BY THE DEPARTMENT OF PLANNING, RESEARCH AND DEVELOPMENT.

WHEREAS, pursuant to Title 20 (Zoning) Section 20.04.420 Fees, and Section 20.04.550 Fees--Adoption--Display of the El Paso Municipal Code, the City Council is authorized to adopt fees for the processing of various applications and procedures administered under this Title as well as certain publications offered for sale to the general public;

WHEREAS, City Council finds that administrative costs for processing these applications has risen since the last fee schedule was adopted; and

WHEREAS, City Council, based on analysis completed by and recommendations from the Department of Planning, Research and Development and the Office of Management and Budget, finds that the schedule of fees listed below are appropriate fees for the processing of these applications and materials;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the following schedule of fees is hereby adopted for various applications and materials processed by the Department of Planning, Research and Development:

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***RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Contract between the **CITY OF EL PASO** and **SHEILA D. PUCKETT**, to assist the Mayor and Council as a Secretary III at an hourly rate of \$12.29 for 40 hours per week. The term of the contract shall be for the period of January 14, 2004 through June 8, 2005.

NOTE: Resolution was revised from "Pucket" to "Puckett".

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***RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Contract between the **CITY OF EL PASO** and **VICTOR A. ARAGONES**, to assist the Metropolitan Planning Organization as a Transportation Planner I at a biweekly rate of \$1,306.28 for 40 hours per week. The term of the contract shall be for the period of January 15, 2004 through January 14, 2005.

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***RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a MEMORANDUM OF AGREEMENT between the New Mexico Department of Transportation ("NMDOT") and the City of El Paso ("City"), as the fiscal agent for the Metropolitan Planning Organization, which Agreement implements the Fiscal Year 2004 Unified Planning Work Program, with terms and conditions as further described in the Agreement, and that the Mayor is hereby authorized to execute any necessary budget transfers to accomplish the intent of this Resolution.

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***RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Contract between the **CITY OF EL PASO** and **ANNETTE MORALES**, to assist the Office of Management and Budget at an hourly rate of \$9.67 not to exceed 29 hours per week. The term of the contract shall be for the period of January 15, 2004 through July 15, 2004.

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***RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Contract between the **CITY OF EL PASO** and **ANDREA JIMENEZ**, as an Undergraduate Intern for the Planning, Research and Development Department at the rate of \$7.25 per hour, not to exceed 40 hours per week. The term of the contract shall be from January 29, 2004 through January 28, 2005.

***RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign an Agreement for Volunteer Services between the **CITY OF EL PASO** and **JESSIE N. SUSTAITA**, to assist the Planning, Research and Development Department as an EZ VISTA Volunteer for a maximum of 32 hours per week from January 14, 2004 through January 11, 2005.

***RESOLUTION**

WHEREAS, the City Planning, Research & Development Department initiated a neighborhood planning focus, Neighborhoods Matter!, in August of 2002 in accordance with *The Plan for El Paso* recommendation that the City address neighborhood concerns and increase neighborhood outreach;

WHEREAS, the City of El Paso Planning, Research & Development Department now has staff assigned as neighborhood planners who have developed and continue to develop specific study area plans including neighborhood plans;

WHEREAS, an interagency partnership Memorandum of Understanding between the City Planning, Research & Development Department and the El Paso Empowerment Zone Corporation ("Corporation") was approved by City Council on May 27, 2003 wherein the El Paso Empowerment Zone Corporation will act in an oversight capacity over the AmeriCorps*VISTA Program and the City of El Paso neighborhood planners will focus on neighborhood planning documents to enhance neighborhood planning initiatives and allow for expedient allocation of staffing resources within the community;

WHEREAS, a work priority program has been developed that outlines neighborhood outreach efforts to be conducted within certain neighborhoods of the City including areas within the Empowerment Zone;

WHEREAS, the El Paso Empowerment Zone Corporation is now working with the AmeriCorps*VISTA Program as a principal and Project Host Site to provide training and orientation regarding neighborhood associations, research and development, and direct community service projects and activities within eligible zone areas;

WHEREAS, the program will be carried out using nationally recruited AmeriCorps*VISTA members over a three year period under a leadership development program that addresses needs of the El Paso Empowerment Zone Corporation;

WHEREAS, an interagency partnership between the City Planning, Research & Development Department and the El Paso Empowerment Zone Corporation enhances neighborhood planning initiatives and allow for expedient allocation of staffing resources within the community; and

WHEREAS, the El Paso City Council pledges a strong commitment to the neighborhood outreach program and encourages citizen input and involvement in the planning process,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Memorandum of Understanding and host site application between the City of El Paso and the El Paso Empowerment Zone Corporation which will enable the City of El Paso, by and through its Planning, Research and Development Department, to be a host site for one Volunteer of the Empowerment Zone's AmeriCorps*VISTA Program, such volunteer to work with Planning staff to develop neighborhood plans.

***R E S O L U T I O N**

WHEREAS, the El Paso City Council finds it in the best interest of the citizens of El Paso that the Multi Agency Referral System (MARS) Program be operated for the August 1, 2004—July 31, 2005 year; and

WHEREAS, the El Paso City Council agrees that in the event of loss or misuse of the Governor's Criminal Justice Division funds, the El Paso City Council assures that the funds will be returned to the Governor's Criminal Justice Division in full.

WHEREAS, the El Paso City Council designates Mayor Joe Wardy as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That the El Paso City Council approves submission of the grant application for the Multi Agency Referral System (MARS) Program to the Governor's Criminal Justice Division.

2. The Mayor be authorized to sign the grant application including all understandings and assurances contained therein, and apply for, accept, reject, alter or terminate the grant in the amount of \$89,600.00, from the City of El Paso Police Department to the Office of the Governor, Criminal Justice Division, the purpose of continuing the efforts of the Police Department's MARS program; no matching funds required.

3. The El Paso City Council agrees that the existence of an award will not be used to offset or decrease total salaries, expenses and allowances that the City receives or provides to its Police Department at or after the time the grant is awarded.

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***R E S O L U T I O N**

WHEREAS, the El Paso City Council finds it in the best interest of the citizens of El Paso that the Serious Habitual Offender Comprehensive Action Program (SHOCAP) be operated for the August 1, 2004—July 31, 2005 year; and

WHEREAS, the El Paso City Council agrees to provide applicable matching funds for the said project as required by the Juvenile Accountability Block Grant Program grant application; and

WHEREAS, the El Paso City Council agrees that in the event of loss or misuse of the Governor's Criminal Justice Division funds, the El Paso City Council assures that the funds will be returned to the Governor's Criminal Justice Division in full.

WHEREAS, the El Paso City Council designates Mayor Joe Wardy as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That the El Paso City Council approves submission of the grant application for the Serious Habitual Offender Comprehensive Action Program (SHOCAP) to the Governor's Criminal Justice Division.

2. The Mayor be authorized to sign the grant application including all understandings and assurances contained therein, and apply for, accept, reject, alter or terminate the grant in the amount of \$177,623.00, from the City of El Paso Police Department to the Office of the Governor, Criminal Justice Division, the purpose of continuing the efforts of the Police Department's SHOCAP program.

3. The City of El Paso agrees to provide in-kind matching funds in the amount of \$19,736.00.

4. The El Paso City Council agrees that the existence of an award will not be used to offset or decrease total salaries, expenses and allowances that the City receives or provides to its Police Department at or after the time the grant is awarded.

5. Lt. Joe Molinar with the Police Department be authorized to sign Cooperative Working Agreements relating to the grant with the following agencies: El Paso County Sheriff's; El Paso County Attorney's Office, El Paso County Juvenile Probation Department, Child Protective Services, Texas Youth Commission and Communities In Schools-El Paso, Inc.

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***RESOLUTION**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign an Agreement with EL PASO DISPOSAL, L.P. for the Solid Waste Management Department to provide recycling pick up service for a fee of \$15.00 for each month for each location, for the purpose of collecting the company's recyclable materials in conjunction with the Department of Solid Waste Management's recycling program.

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***NOTICE OF PUBLIC HEARING**

To All Interested Parties:

You are hereby notified that at 9:00 a.m. on the 17th day of February, 2004 in the Council Chambers of City Hall, #2 Civic Center Plaza, El Paso, Texas, the City Council of El Paso will hold a public hearing on the question of whether the Building located on the property at 3303 Frutas Ave., in El Paso, Texas, which property is more particularly described as:

Lot: The East 20 feet of Lot 2 and the West fifteen feet of Lot 3, Block 28, SUPPLEMENTAL MAP NO. 1 OF EAST EL PASO, TEXAS, an addition to the City of El Paso, El Paso County, Texas, according to the map thereof on File in Book 1, Page 51, Plat Records of El Paso County, Texas.

is unsafe and dangerous.

According to the real property records of the County of El Paso, Texas, Margarita Alvarez, 3544 East Glen Dr. Apt. B, El Paso, Texas 79936, is listed as the Owner of the real property described herein.

The Owner of said property is hereby ordered to appear before City Council and any mortgagees, lien holders, and other persons having an interest in said property are entitled to appear before City Council at said date, hour, and place to show cause why said Building should not be declared a nuisance and ordered to be abated; and

The Owner, lien holders, mortgagees, or any other person having an interest in the property are hereby required to submit at the hearing proof of the scope of any work that may be required to bring the building into compliance with Titles 17 and 18 of the code as mandated by Section 18.52.040 of the Municipal Code, and to specify the time it will take to reasonably perform the work.

At the hearing, the owners, lien holders, mortgagees, or any other person having an interest in the property must present to City Council any evidence showing that the structure or part thereof is safe.

All documents such as building plans, specifications, drawings, reports from design professionals and any other required documents must be presented to City Council at this hearing.

The time periods, which govern the completion of work ordered by Council, are outlined in Subsection 18.52.040 (3) pursuant to State law.

If the Owner fails, neglects or refuses to comply with the order of City Council the City may pursue one, or more of the following actions:

- I) the city will perform any and all work needed to bring the property into compliance with this order, at its own expense, but for and on account of the Owner, of said property, the cost of which shall be assessed as a lien against the property and;
- II) assess a civil penalty against the property Owner for failure to repair, remove or demolish said Building in an amount not to exceed \$1000.00 a day for each violation, or \$10 a day if the Owner shows that the property is the Owner's lawful homestead and;
- III) the Owner may be confined in jail as permitted by state law and;
- IV) appoint a receiver as permitted by state law.

Any civil penalty or assessment imposed will accrue interest at a rate of ten (10) percent a year from the date of the assessment until paid in full; and

That the City Clerk is ordered to provide notice of this hearing to the record Owner and all other persons having an interest in the property as provided by law.

According to the real property records of El Paso County, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to the Housing Compliance Office of the Building Permits and Inspections, 5th floor, City Hall, no later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not.

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*NOTICE OF PUBLIC HEARING

To All Interested Parties:

You are hereby notified that at 9:00 a.m. on the 17th day of February, 2004 in the Council Chambers of City Hall, #2 Civic Center Plaza, El Paso, Texas, the City Council of El Paso will hold a public hearing on the question of whether the Building located on the property at 1413 E. Nevada Ave., in El Paso, Texas, which property is more particularly described as:

Lot: The East 13 feet of Lots 15 and 16 and the West 21 ½ feet of Lot 16, Block 98, FRANKLIN HEIGHTS ADDITION, an Addition to the City of El Paso County, Texas, according to the map thereof on File in Book 9, Page 63, Plat Records of El Paso County, Texas.

is unsafe and dangerous.

According to the real property records of the County of El Paso, Texas, Cristina Ramirez Gaytan, 11325 Lake Nemi Dr., El Paso, Texas 79936, is listed as the Owner of the real property described herein.

The Owner of said property is hereby ordered to appear before City Council and any mortgagees, lien holders, and other persons having an interest in said property are entitled to appear before City Council

at said date, hour, and place to show cause why said Building should not be declared a nuisance and ordered to be abated; and

The Owner, lien holders, mortgagees, or any other person having an interest in the property are hereby required to submit at the hearing proof of the scope of any work that may be required to bring the building into compliance with Titles 17 and 18 of the code as mandated by Section 18.52.040 of the Municipal Code, and to specify the time it will take to reasonably perform the work.

At the hearing, the owners, lien holders, mortgagees, or any other person having an interest in the property must present to City Council any evidence showing that the structure or part thereof is safe.

All documents such as building plans, specifications, drawings, reports from design professionals and any other required documents must be presented to City Council at this hearing.

The time periods, which govern the completion of work ordered by Council, are outlined in Subsection 18.52.040 (3) pursuant to State law.

If the Owner fails, neglects or refuses to comply with the order of City Council the City may pursue one, or more of the following actions:

- I) the city will perform any and all work needed to bring the property into compliance with this order, at its own expense, but for and on account of the Owner; of said property, the cost of which shall be assessed as a lien against the property and;
- II) assess a civil penalty against the property Owner for failure to repair, remove or demolish said Building in an amount not to exceed \$1000.00 a day for each violation, or \$10 a day if the Owner shows that the property is the Owner's lawful homestead and;
- III) the Owner may be confined in jail as permitted by state law and;
- IV) appoint a receiver as permitted by state law.

Any civil penalty or assessment imposed will accrue interest at a rate of ten (10) percent a year from the date of the assessment until paid in full; and

That the City Clerk is ordered to provide notice of this hearing to the record Owner and all other persons having an interest in the property as provided by law.

According to the real property records of El Paso County, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to the Housing Compliance Office of the Building Permits and Inspections, 5th floor, City Hall, no later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not.

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*Motion made, seconded and unanimously carried to approve the request to fill the following position on a temporary basis in accordance with Article VI, Section 6.6-3, of the Civil Service Charter Provisions:

Custodial Worker (1)

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*Motion made, seconded and unanimously carried to re-appoint William H. Rogers, M.D. to the El Paso Mountain Committee by Representative Susan Austin, District 1.
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*Motion made, seconded and unanimously carried to appoint Eileen Karlsruher to the Parks and Recreation Advisory Board by Mayor Joe Wardy.

*Motion made, seconded and unanimously carried to appoint Lewis C. Wright, Jr. to the Tree Board by Representative Susan Austin, District 1.

*Motion made, seconded and unanimously carried to appoint Oscar S. Mestas to the Tree Board by Representative Vivian Rojas, District 7.

*Motion made, seconded and unanimously carried that the following installment agreements for AD VALOREM taxes be approved in the amount shown and that the Mayor be authorized to sign said agreements on behalf of the City:

- A. PID #'s M298-999-0030-1900, M794-999-0530-6500 & M794-999-0530-7300, \$786.92 per month installments on a balance of \$9,443.04 for 2001 & 2002 taxes; Ali & Martha Rouhani – 9725 Montana.
- B. PID #S996-000-0030-0200, \$363.45 per month installments on a balance of \$2,180.70 for 2000, 2001 & 2002 taxes; Saul R. Villalobos – 110 Saul Dr.
- C. PID #0818-999-1246-0034, \$557.46 per month installments on a balance of \$3,344.76 for 2002 taxes; All That Music % George Reynoso – 1506 Lee Trevino.
- D. PID #2001-000-5227-0058, \$373.39 per month installments on a balance of \$2,613.73 for 2001 & 2002 taxes; Jesus Velarde – 13632 Nayarit.

*Motion made, seconded and unanimously carried to approve budget transfer BT2004-262 MUSEUM OF ART

To transfer appropriations to new fund number for Wilderness Park Museum Store. Transfer is necessary to enable Museums Department to track changes in fund balance of the Art Museum Gift Shop Fund and Wilderness Park Museum Gift Shop Fund, separately.

Decrease	\$ 2,000	from	54500031/50110/502000	PersSvcCnt
Increase	\$ 2,000	to	54500031/50113/502000	PersSvcCnt
Decrease	\$ 400	from	54500031/50110/502209	PrtgSvcCnt
Increase	\$ 400	to	54500031/50113/502209	PrtgSvcCnt
Decrease	\$ 800	from	54500031/50110/502211	Rec&Culture
Increase	\$ 800	to	54500031/50113/502211	Rec&Culture
Decrease	\$ 400	from	54500031/50110/502215	OutsideCnt
Increase	\$ 400	to	54500031/50113/502215	OutsideCnt
Decrease	\$ 400	from	54500031/50110/502226	BldgMntCnt
Increase	\$ 400	to	54500031/50113/502226	BldgMntCnt
Decrease	\$ 100	from	54500031/50110/502411	Leases
Increase	\$ 100	to	54500031/50113/502411	Leases
Decrease	\$ 500	from	54500031/50110/503100	OfficeSup
Increase	\$ 500	to	54500031/50113/503100	OfficeSup
Decrease	\$ 8,000	from	54500031/50110/503102	PromoSup
Increase	\$ 8,000	to	54500031/50113/503102	PromoSup
Decrease	\$ 2,500	from	54500031/50110/503115	Food&BevSup
Increase	\$ 2,500	to	54500031/50113/503115	Food&BevSup
Decrease	\$ 900	from	54500031/50110/503116	Rec Sup
Increase	\$ 900	to	54500031/50113/503116	Rec Sup
Decrease	\$ 500	from	54500031/50110/503122	MntSupParts
Increase	\$ 500	to	54500031/50113/503122	MntSupParts
Decrease	\$ 5,000	from	54500031/50110/504201	TrvlExpEmp
Increase	\$ 5,000	to	54500031/50113/504201	TrvlExpEmp
Decrease	\$ 5,000	from	54500031/50100/508010	DataProcEq
Increase	\$ 5,000	to	54500031/50113/508010	DataProcEq

Increase	\$26,500	to	54500031/50110/507000	Intrfd Trf
Increase	\$26,500	to	54500031/50113/407000	Intrfd Trf

*Motion made, seconded and unanimously carried to approve budget transfer BT2004-280 AIRPORT
Transfer of funds to cover acquisition of two new vehicles for the Police Units.

Increase	\$41,000	to	62620020/P50000441022/508006	Vehicles
Increase	\$41,000	to	62620020/P50000441022/407001	Intrfd Trf In
Increase	\$41,000	to	62620018/P50000241021/407002	Est Rev
Increase	\$41,000	to	62620018/P50000241021/507001	IntrfdTrf Out

*Motion made, seconded and unanimously carried to approve budget transfer BT2004-281 POLICE
To appropriate additional funding received from State Breath & Alcohol program.

Increase	\$24,673.52	to	21150070/50023916416/405065	Non-Op Rev
Increase	\$ 5,681.09	to	21150070/50023916416/502229	Off Sup Cnt
Increase	\$ 583.00	to	21150070/50023916416/503100	Office Sup
Increase	\$ 2,141.47	to	21150070/50023916416/503101	Min Off Equip
Increase	\$ 4,250.00	to	21150070/50023916416/503104	Min Comp Eq
Increase	\$ 72.00	to	21150070/50023916416/503111	Clean Sup
Increase	\$ 1,852.53	to	21150070/50023916416/503117	EqMntSup
Increase	\$ 1,929.85	to	21150070/50023916416/503122	Maint Parts
Increase	\$ 3,994.58	to	21150070/50023916416/504201	Travel
Increase	\$ 3,700.00	to	21150070/50023916416/504406	Othr Svcs Chg
Increase	\$ 469.00	to	21150070/50023916416/504414	Prof Lic

*Motion made, seconded and unanimously carried to approve budget transfer BT2004-283 POLICE
To appropriate budget for confiscated funds – Federal Award.

Increase	\$1,161,345	to	21150060/50023116371/405065	NonOp Rev
Increase	\$ 62,045	to	21150060/50023116371/502116	Promo Svc
Increase	\$ 220,000	to	21150060/50023116371/504406	Other Svc
Increase	\$ 607,000	to	21150060/50023116371/506000	Cash Match
Increase	\$ 247,500	to	21150060/50023116371/508007	PubSafetyEq
Increase	\$ 4,800	to	21150060/50023116371/502215	Outside Cont
Increase	\$ 20,000	to	21150060/50023116371/508013	Animals

*Motion made, seconded and unanimously carried to approve budget transfer BT2004-284 POLICE
To appropriate budget for confiscated funds – State Award.

Increase	\$562,970	to	21150060/50023216411/405065	NonOpRev
Increase	\$ 20,000	to	21150060/50023216411/503100	OfficeSup
Increase	\$ 10,000	to	21150060/50023216411/503117	EquipMaint
Increase	\$ 91,800	to	21150060/50023216411/508008	MajOffEq
Increase	\$441,170	to	21150060/50023216411/508010	Data Proc

*Motion made, seconded and unanimously carried to approve budget transfer BT2004-288 HEALTH
This budget transfer will align the Texas Department of Health Bio-Terrorism Preparedness Grant
Document 7460007499-2004 Attachment 10 to TDH funding.

Increase	\$472,858	to	41150023/G41042506086/406001	St Grt Pro
Increase	\$ 61,929	to	41150023/G41042506086/501000	Salary
Increase	\$ 29,924	to	41150023/G41042506086/501011	Pt-Temp
Increase	\$ 7,588	to	41150023/G41042506086/501100	Wrker's Comp

Increase	\$ 170	to	41150023/G41042506086/501114	Life Ins
Increase	\$ 11,505	to	41150023/G41042506086/501124	City Pension
Increase	\$ 5,695	to	41150023/G41042506086/501129	FICA City
Increase	\$ 1,332	to	41150023/G41042506086/501130	FICA Med City
Increase	\$ 2,200	to	41150023/G41042506086/502112	Security Cont
Increase	\$ 45,000	to	41150023/G41042506086/502215	Outside Cont
Increase	\$ 500	to	41150023/G41042506086/502226	BdgFcMntCnt
Increase	\$ 360	to	41150023/G41042506086/502404	Office Equip
Increase	\$ 9,259	to	41150023/G41042506086/503100	Office Sup
Increase	\$ 1,127	to	41150023/G41042506086/503104	Min Comp Eq
Increase	\$ 1,214	to	41150023/G41042506086/503107	Photo Sup
Increase	\$ 13,184	to	41150023/G41042506086/503108	Training Mat
Increase	\$ 12,000	to	41150023/G41042506086/503112	Clinical Sup
Increase	\$ 1,700	to	41150023/G41042506086/503123	Safety Equip
Increase	\$ 5,499	to	41150023/G41042506086/504000	Phone
Increase	\$ 720	to	41150023/G41042506086/504001	Long Dist
Increase	\$ 18,934	to	41150023/G41042506086/504002	Paging Svc
Increase	\$ 500	to	41150023/G41042506086/504100	Elect
Increase	\$ 300	to	41150023/G41042506086/504101	Water
Increase	\$ 500	to	41150023/G41042506086/504102	Natural Gas
Increase	\$ 13,300	to	41150023/G41042506086/504412	Sem/Cont Edu
Increase	\$ 9,207	to	41150023/G41042506086/504415	Indirect Cost
Increase	\$ 500	to	41150023/G41042506086/504004	Shipping
Increase	\$ 5,000	to	41150023/G41042506086/502400	Bldg Lease
Increase	\$ 55,000	to	41150023/G41042506086/502214	Trng Ed Cont
Increase	\$ 3,000	to	41150023/G41042506086/502228	Vehicle Maint
Increase	\$ 20,500	to	41150023/G41042506086/502116	Prom Events
Increase	\$ 27,413	to	41150023/G41042506086/503102	Prom Sup
Increase	\$ 2,096	to	41150023/G41042506086/503120	Uniform/App
Increase	\$ 3,470	to	41150023/G41042506086/508002	Building
Increase	\$ 58,048	to	41150023/G41042506086/508008	Maj Off E
Increase	\$ 27,722	to	41150023/G41042506086/508010	Data Proc Eq
Increase	\$ 6,462	to	41150023/G41042506086/508012	Med/Sci Equip
Increase	\$ 10,000	to	41150023/G41042506086/508035	Comuncation
Decrease	\$ 2,853	from	41150023/G41042506086/501108	POSCtyEmCn
Increase	\$ 2,853	to	41150023/G41042506086/503100	Office Sup
Decrease	\$ 10,000	from	41150023/G41042506086/503101	Min Off Eq
Increase	\$ 10,000	to	41150023/G41042506086/503102	Prom Sup

*Motion made, seconded and unanimously carried to delete budget transfer BT2004-292 BUILDING AND PLANNING SERVICES

Building and Planning Services proposes to appropriate \$275,000 to fund the design phase of Memorial Park and Pool. Funding source is 2000 QOL bonds.

Increase	\$275,000	to	31130550/PPW0046026YR260029/508050	Design
Increase	\$275,000	to	31130050/PPW0046026YR260029/407020	Bond Proc

*Motion made, seconded and unanimously carried to approve budget transfer BT2004-293 COMMUNITY AND HUMAN DEVELOPMENT

This transfer will provide the required funds in the Fire Station Number 4 construction account to fund the "EPCON, Inc." awarded bid for this 28th year (2003-2004) project.

Increase	\$2,800	to	71150069/G7128CD007307731/508027	Construction
Decrease	\$2,800	from	71150069/G7128CD000107747/508027	Construction

Motion made by Representative Cushing, seconded by Representative Power and unanimously carried that the following Ordinances, having been introduced pursuant to Section 3.9 of the El Paso City Charter, be advertised for public hearing:

- A. An Ordinance amending Title 12 (Vehicles and Traffic), Chapter 12.88 (Schedules), Section 12.88.030 (Schedule III - Parking Prohibited at all times on certain streets) to add a new location on Kenworthy Drive from Woodrow Bean Transmountain Drive (Loop 375) to Diana Drive. The penalty being as provided in Section 12.84.010 of the El Paso Municipal Code.
- B. An Ordinance granting a Special Privilege to Beautiful Savior Evangelical Lutheran Church permitting the encroachment of two directional signs onto portions of public right-of-way along Resler Drive. (Annual Fee: \$660.00, SP-03024).
- C. An Ordinance granting a Special Privilege to the Central Business Association of El Paso, Inc., to permit temporary sidewalk vending for participating merchants within certain public rights-of-way in Downtown El Paso from January 28, 2004 through July 3, 2004. (Fee: \$44.55 per 3' x 9' vending area or \$90.75 per 6' x 9' vending area, SP-03025).
- D. An Ordinance amending Sections of Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments) to revise fees. The penalty being as approved in Section 9.12.890 of the El Paso Municipal Code.

PUBLIC HEARING WILL BE HELD ON JANUARY 27, 2004 FOR ITEMS A – D

- E. An Ordinance changing the zoning of property legally described as Fifty Feet on Santa Fe Street By One Hundred Twenty Feet on Paisano Drive SEC, Block 32, Mills Addition, El Paso, El Paso County, Texas (331 S. Santa Fe Street) from U-P (Union Plaza) TO U-P/H (Union Plaza/Historic). The penalty being as provided in Chapter 20.68 of the El Paso Municipal Code. Applicant: City of El Paso / Representative: City of El Paso Fire Department; 8600 Montana Avenue, El Paso, TX 79925. ZON03-00069.
- F. An Ordinance changing the zoning of Lots 82 and 83, Los Ranchitos, El Paso, El Paso County, Texas (5508 and 5512 Will Ruth Avenue) from R-4 (Residential) TO C-1 (Commercial). The penalty being as provided in Chapter 20.68 of the El Paso Municipal Code. Applicant: Robert Semon / Representative: Lane C. Reedman; 4171 N. Mesa Street, B-201, El Paso, TX 79902. ZON03-00076.
- G. An Ordinance amending Ordinance No. 9860 which changed the zoning of Lots 11, 12, and the North 8' of Lot 13, and the North 60' of the vacated alley, Block 31 (Parcel 1), Lots 17, 18, 19 and 20, Block 49 (Parcel 2), West 60' of Lot 11, and all of Lot 12, Block 49 (Parcel 3), Campbell Addition, El Paso, El Paso County, Texas, and which imposed certain conditions, by deleting those conditions thereof. The penalty being as provided in Chapter 20.68 of the El Paso Municipal Code. Applicant / Representative: City of El Paso; 2 Civic Center Plaza, El Paso, TX 79901. ZON04-00010.
- H. An Ordinance amending Ordinance No. 9755 which changed the zoning of the East 54 feet of Lot 10, the East 54 feet of the North 11 feet of Lot 9, and the South 9 feet of the North 20 feet of Lot 9, Block 31, Campbell Addition, El Paso, El Paso County, Texas, and which imposed certain conditions, by deleting those conditions thereof. The penalty being as provided in Chapter 20.68 of the El Paso Municipal Code. Applicant / Representative: City of El Paso; 2 Civic Center Plaza, El Paso, TX 79901. ZON04-00011.

PUBLIC HEARING WILL BE HELD ON FEBRUARY 3, 2004 FOR ITEMS E – H

Public Hearings will be held as part of the regular City Council meeting which begins at approximately 9AM. All interested persons present shall have an opportunity to be heard at that time. After the public hearings, Council may also delay taking action on Ordinances, no requirement is made by Section 3.9B of the El Paso City Charter to publish any further notice. Copies of all Ordinances are available for review in the City Clerk's office, 2 Civic Center Plaza, Monday through Friday, 8AM to 5PM.

Motion made by Representative Cushing, seconded by Representative Rojas and unanimously carried to postpone one (1) week the discussion of First Quarterly Financial Report.

Representative Escobar was not present for the vote.

.....
RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the El Paso City Council hereby renames the portion of Geranium Drive located within Las Flores Subdivision Unit 1 and west of Zaragoza Road to Cristo Viene Drive, and authorizes the Mayor to take any and all action necessary to effectuate such renaming. The entire length of Geranium Drive hereby renamed is located within the City of El Paso, El Paso County, Texas.

Motion made by Representative Rojas, seconded by Representative Cobos and unanimously carried to approve the above Resolution.

Representatives Austin, Power and Escobar were not present for the vote.

.....
ORDINANCE 15668

The City Clerk read an Ordinance entitled: **AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.52 (FIRE PREVENTION CODE) OF THE EL PASO MUNICIPAL CODE TO ADD SECTION 3406.5.4.5, (COMMERCIAL, INDUSTRIAL, GOVERNMENTAL OR MANUFACTURING); TO AMEND SECTION 3406.6.1.3 (VEHICLE MOTOR SHUTDOWN). THE PENALTY BEING AS PROVIDED IN CHAPTER 1.08 OF THE EL PASO MUNICIPAL CODE.**

Motion duly made by Representative Cook, seconded by Representative Austin, that the Ordinance be adopted. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

The City Clerk called for public comment. There was no further public comment.

AYES: Council Members Austin, Cushing, Cook, Power, Escobar and Rojas
NAYS: None Absent: None

Representatives Lozano and Cobos were not present for the vote.

Whereupon the Mayor ordered that the vote having been cast in favor of the Ordinance, the same be and the same is hereby adopted.

.....
ORDINANCE 15669

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING A SPECIAL PRIVILEGE TO ASCENSION LUTHERAN CHURCH PERMITTING THE ENCROACHMENT OF ONE DIRECTIONAL SIGN ONTO A PORTION OF PUBLIC RIGHT-OF-WAY AT OJO DE AGUA DRIVE.**

The City Clerk called for public comment. There was no public comment.

Motion duly made by Representative Austin, seconded by Representative Cushing, that the Ordinance be adopted. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Council Members Austin, Cushing, Lozano, Cook, Power, Escobar, Rojas and Cobos
NAYS: None Absent: None

Representatives Lozano and Cobos were not present for the vote.

Whereupon the Mayor ordered that the vote having been cast in favor of the Ordinance, the same be and the same is hereby adopted.

.....
Motion made by Representative Cushing, seconded by Representative Cobos and carried to move to the forefront of the Regular Agenda Ordinance 15670, first item to be considered.

AYES: Representatives Austin, Cushing, Lozano, Power, Escobar, Rojas and Cobos
NAYS: Representative Cook

ORDINANCE 15670

The City Clerk read an Ordinance entitled: **AN ORDINANCE APPROVING THE NORTHWEST UPPER VALLEY PLAN AS A SPECIFIC STUDY AREA PLAN TO BE INCORPORATED INTO THE CITY'S COMPREHENSIVE PLAN, THE PLAN FOR EL PASO, AND WHICH PLAN SHALL AMEND THE PLAN FOR EL PASO AND THE YEAR 2025 GENERAL LAND USE MAP INCORPORATED THEREIN.**

Mr. George Sarmiento, Director of Planning, Research and Development, commented on the Plan for El Paso, gave a Powerpoint presentation, (on file in the City Clerk's office) and answered questions from and responded to comments made by the Council Members. He noted the recommendations of the Planning, Research and Development Department the CPC (City Plan Commission).

Mayor Joe Wardy and Representatives Austin, Cook, Power, Cobos, Cushing, Escobar, and Lozano commented.

Ms. Veronica Rosales, Planning, Research and Development, answered questions from and responded to comments made by the Council Members.

Mr. Rudy Valdez, Chief Urban Planner, answered questions from and responded to comments made by the Council Members.

Mr. Matt Watson, Assistant City Attorney, provided legal advice.

Mr. Jose Lara, El Paso Water Utilities, commented on water issues associated with the Northwest Upper Valley Plan.

Representative Cushing requested that the letter written from Mr. Ed Archuleta, General Manager El Paso Water Utility and Public Service Board, be made a part of the record. See "Attachment 1" to the minutes.

The following individuals spoke in opposition to the Ordinance:

- 1. Mr. Sal Masoud
- 2. Mr. Ray Adaauto
- 3. Ms. Risher Gilbert
- 4. Mr. Randy O'Leary
- 5. Mr. Greg Rystad
- 6. Mr. Mark Dyer
- 7. Mr. Miguel Horcasitas

The following individuals spoke in favor of the Ordinance:

1. Mr. Jim Maxfield
2. Ms. Mary Frances Kiesling
3. Ms. Sonia Gomez-McPhutter
4. Mr. Larry Nance
5. Mr. Bobbing Green
6. Ms. Catherine Woodul
7. Ms. Michelle Maxfield
8. Mr. Ernest Connor
9. Ms. Laure Searls

Prior to Ms. Searls' remarks she questioned whether or not the Council of El Paso was bound by the Texas Open Meetings Act and requested that question be noted in the record.

Representative Austin asked Council to pass the Ordinance as proposed and moved to approve. There was no second.

Representative Cushing requested that the Mayor accept his abstract as part of the record. See "Attachment 2" to the minutes.

Mayor Joe Wardy approved.

Representative Power moved to approve the Ordinance, with an amendment, that Council exclude properties purchased by developers under the 2025 Plan for El Paso. Representative Cook seconded.

Mr. Watson requested that Council limit their amendment to a valid land study.

Mr. Billy Crossland, Upper Valley resident, questioned Council Members which properties had a valid land study.

Mr. Rudy Valdez, Chief Urban Planner, suggested the following amendment language: "that would include the land study that had been approved to the City Plan Commission, with respect to Desert View, and any zoning applications submitted prior to adoption to the Ordinance change".

Representative Cobos requested that Mr. Valdez provide specific land studies for Council Members information.

Representative Cook withdrew his second to allow Representative Cobos to present his motion.

Mr. Watson reiterated the Motion as follows: to approve the City Plan Commission recommendations to the amendments to the comprehensive plan to the Northwest Planning Area with the following changes: "400 ft. strip of either side of Artcraft corridor with five units per gross acre density, excluding any land study, subdivision plat and rezoning applications received as of January 12, 2004".

Representative Power withdrew his amendment to Representative Cobos' original motion and seconded Representative Cobos' original motion to extend the Artcraft corridor west to the New Mexico State Line.

Electronic voting was automatically suspended due to the Council Members voting on separate issues pertaining to the same Ordinance.

Representative Cobos withdrew his Motion and proceeded with the new motion.

Motion made by Representative Cobos, seconded by Representative Power and carried to extend the Artcraft corridor all the way to the New Mexico State Line, 400 ft. North and South of Artcraft.

AYES: Representatives Cushing, Lozano, Cook, Power, Escobar and Cobos
NAYS: Representatives Austin and Rojas

Motion made by Representative Power, seconded by Representative Cushing and carried to amend the Ordinance, excluding the properties that already have a valid land study application, zoning application, or subdivision application on file as of Monday, January 12, 2004.

AYES: Representatives Cushing, Lozano, Cook, Power, Escobar and Cobos
NAYS: Representatives Austin and Rojas

Motion made by Representative Cobos, seconded by Representative Cushing and carried to amend the Ordinance to expand or add the number of developable units within the Artcraft corridor from 3.5 to 5 units.

AYES: Representatives Cushing, Lozano, Cook, Power, Escobar and Cobos
NAYS: Representatives Austin and Rojas

Motion made by Representative Cushing, seconded by Representative Cook and carried to amend the Ordinance as a maximum of 2.5 dwellings per acre.

AYES: Representatives Cushing, Lozano, Cook, Power and Escobar
NAYS: Representatives Austin, Rojas and Cobos

The City Clerk for further public comment. There was no further public comment.

Motion duly made by Representative Power, seconded by Representative Cushing, that the Ordinance be adopted, as amended. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES:	Council Members Austin, Cushing, Lozano, Cook, Power, and Escobar		
NAYS:	Council Members Rojas and Cobos	Absent:	None

Whereupon the Mayor ordered that the vote having been cast in favor of the Ordinance, the same be and the same is hereby adopted.

NOTE: Ordinance was amended.

.....
Motion made by Representative Cook, seconded by Representative Cushing and unanimously carried to recess this City Council Meeting for a break at 1:12 p.m.

.....
Motion made by Representative Cook, seconded by Representative Power and unanimously carried to reconvene this City Council Meeting from a break at 1:23 p.m.

.....
An Ordinance changing the zoning of Portions of Tracts 13 & 14, Lakeside Village, El Paso, El Paso County, Texas (7046½ Alameda Avenue) from C-1 (Commercial) to C-3 (Commercial) and imposing certain conditions. The penalty is as provided in Section 20.68.010 of the El Paso Municipal Code.

Motion made by Representative Lozano, seconded by Representative Cushing and carried to move to the forefront of the Regular agenda Ordinance 15671, second item to be considered.

AYES: Representatives Austin, Cushing, Lozano, Power, Escobar, Rojas and Cobos
NAYS: Representative Cook

Whereupon the Mayor ordered that the vote having been cast in favor of the Ordinance, the same be and the same is hereby adopted.

NOTE: Ordinance was amended to include the following language "subject to staff recommendation on lease agreement".

.....
RESOLUTION APPROVING DETAILED SITE DEVELOPMENT PLAN NO. ZON03-00049, FOR LOT 10, BLOCK 4, HUECO VIEW ACRES, EL PASO, EL PASO COUNTY, TEXAS (GEORGE DIETER DRIVE SOUTH OF TURNER ROAD), PURSUANT TO A SPECIAL CONTRACT IMPOSED BY ORDINANCE NO. 009126. THE PENALTY IS AS PROVIDED IN CHAPTER 20.68 OF THE EL PASO MUNICIPAL CODE.

WHEREAS, **Texas Conference Association 7th Day Adventist** (the "Applicant") has applied for approval of a detailed site development plan pursuant to a special contract, to permit the construction and development of a school;

WHEREAS, a report was made by the staff to the City Plan Commission and a public hearing was held regarding such application;

WHEREAS, the City Plan Commission has recommended approval of the subject detailed site development plan; and

WHEREAS, the subject detailed site development plan has been submitted to the City Council of the City of El Paso for review and approval;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. Pursuant to Section 20.04.150 of the El Paso Municipal Code, the City Council hereby approves the detailed site development plan submitted by the Applicant, to permit the construction and development of a school on the following described property which is located in a C-1/sc (Commercial/special contract) District:

Lot 10, Block 4, Hueco View Acres, El Paso, El Paso County, Texas.

A copy of the approved detailed site development plan, signed by the Applicant, the Mayor and the Secretary of the City Plan Commission, is attached hereto, as Exhibit "A" (Exhibit "a" on file in the City Clerk's Office) and incorporated herein by reference.

2. All construction and development on the property shall be done in accordance with the approved detailed site development plan and the development standards applicable in the C-1/sc (Commercial/special contract) District regulations.

3. The Applicant shall sign an agreement to develop the property and to perform all construction thereon in accordance with the approved detailed site development plan and the standards applicable in the C-1/sc (Commercial/special contract) District regulations. Such agreement shall be signed and filed with the Zoning Administrator and the Executive Secretary of the City Plan Commission before building permits are issued.

4. This approval shall be void if construction on the property is not started in accordance with the approved detailed site development plan within four (4) years from the date hereof.

Ms. Richarda Duffy Momsen, City Clerk, provided copies of documents to Council Members. (on file in the City Clerk's office).

Motion made by Representative Power, seconded by Representative Cook and unanimously carried to approve the above Resolution.

NOTE: This Resolution was moved and considered after the Introductions.

.....
RESOLUTION

WHEREAS, the Director for Building Permits and Inspections and the Fire Marshal of the City of El Paso have conducted an investigation and have reported to the City Council in writing that they are of the opinion that the structure located on the property at **5833 Porpoise Dr.**, in El Paso, Texas, which property is more particularly described as follows:

Lot: 9, Block 17, DOLPHIN TERRACE UNIT 3, an Addition to the City of El Paso, El Paso County, Texas, according to the map thereof on File in Book 1, Page 49, Plat Record of El Paso County, Texas.

is dilapidated, substandard, and unfit for human habitation; is a hazard to public health, safety, and welfare; does not meet the minimum standards for continued use and occupancy contained in Titles 17 and 18 of the Municipal Code which are adopted and incorporated by reference into Section 18.52; and

WHEREAS, **Mario and Nancy Ramirez, 3120 Zion Dr., El Paso, Texas 79924**, record Owners, and all mortgagees and lienholders were duly notified according to law to appear at a public hearing before City Council at 9:00 a.m. on January 13th, 2004; and

WHEREAS, NO ONE, APPEARED,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That City Council having heard the evidence, makes the following findings:
 - a. That the structure located on said property is unsafe, substandard, unfit for human habitation or use, and therefore a hazard to the public health, safety, and welfare; and
 - b. That the structure is not in substantial compliance with municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
 - c. The structure's certificate of occupancy is hereby revoked; and
 - d. The structure can be repaired.
2. That the City Council hereby orders Owners to comply with the following requirements:
 - a. That the Building be secured and maintained secured until rehabilitated within (30) days; and
 - b. That the premises be cleaned of all weeds, trash and debris within (30) days; and
 - c. That the Owners of said Building are hereby ordered to comply with all requirements of the Resolution; and
 - d. The owners are advised that in order to obtain a new certificate of occupancy, the entire building and its service systems must be brought into compliance with the current codes.
 - e. That upon failure of the Owners to comply with this Resolution, any mortgagees, lienholder, and other persons having an interest in the property have an additional ten (10) days to secure the Building and maintain the Building secure and clean the premises of all weeds, trash, and debris; and

3. That upon failure of the Owners to comply with this Order, the City of El Paso through its Director for Building Permits and Inspections may secure the Building and maintain the Building secure and clean the premises of all weeds, trash, and debris at its own expense, but for and on account of the Owners of said property; and
4. That said Owners shall become personally liable for all costs incurred by City in connection with securing and maintaining the Building secure and cleaning the premises of all weeds, trash and debris; and
5. That the costs incurred by the City in connection with securing and maintaining the Building secure and cleaning the premises of all weeds, trash, and debris shall become due and payable within thirty (30) days of the date of completion of the work and such cost shall be assessed as a lien against the property unless paid; and
6. That upon failure of the Owners to comply with this Order, one or all of the following actions will be taken:
 - a. The City may perform any and all work needed to bring the property into compliance with this order, at its own expense but for and on account of the Owners of said property, the cost of which shall be assessed as a lien against the property; and
 - b. That upon failure of the Owners to comply with this order the City Council may assess a civil penalty against the property Owners in an amount not to exceed \$1,000.00 a day for each violation or, if the Owners show that the property is the Owner's lawful homestead, in an amount not to exceed ten (10) dollars a day for each violation; and
 - c. That upon failure of the Owners to comply with this order, the Owners may be confined in jail as permitted by state law; and
7. That upon failure of the Owners, any mortgagees or lienholders to restore the Building so that it complies with all relevant City Code requirements, the City of El Paso, if applicable, may bring an action in District Court to request appointment of a receiver for the rehabilitation of said property pursuant to Section 214.003 of the Texas Local Government Code; and
8. The Owners, any mortgagees, or lienholders have a right to appeal these findings to a court of competent jurisdiction within ten (10) days after notice of this Resolution. The findings shall become final after ten (10) days of receipt of Notice; and
9. That any civil penalty or assessment imposed will accrue interest at a rate of ten (10) percent a year from the date of assessment until paid in full; and
10. That the City Clerk is ordered to cause copies of this Resolution to be served on the record Owners and all other persons having interest in the property as provided by law.

According to the real property records of El Paso County, you own the property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office no later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not.

Mr. Thomas Maguire, Building Permits and Inspections, presented the case to Council Members and gave the department's recommendation(s).

Motion made by Representative Cook, seconded by Representative Power and unanimously carried to approve the above Resolution.

Representative Cobos was not present for the vote.

RESOLUTION

WHEREAS, the Director for Building Permits and Inspections and the Fire Marshal of the City of El Paso have conducted an investigation and have reported to the City Council in writing that they are of the opinion that the structure located on the property at **2927 Mountain Ave.**, in El Paso, Texas, which property is more particularly described as follows:

Lots: 13 & 14, Block 7, Military Heights

is dilapidated, substandard, and unfit for human habitation; is a hazard to public health, safety, and welfare; does not meet the minimum standards for continued use and occupancy contained in Titles 17 and 18 of the Municipal Code which are adopted and incorporated by reference into Section 18.52; and

WHEREAS, **Hector and Bertha Correra, 3116 Aurora Ave., El Paso, Texas 79930, Alphonso Correra, 5101 Bragg Ave., El Paso, Texas 79930, Manuel Correra (deceased) and Arturo Correra (deceased)**, record Owners, and all mortgagees and lienholders were duly notified according to law to appear at a public hearing before City Council at 9:00 a.m. on January 13th, 2004; and

WHEREAS, Hector Correra, APPEARED,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That City Council having heard the evidence, makes the following findings:
 - a. That the main structure and accessory buildings located on said property is unsafe, substandard, unfit for human habitation or use, and therefore a hazard to the public health, safety, and welfare; and
 - b. That the structures are not in substantial compliance with municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
 - c. The structure's certificate of occupancy is hereby revoked; and
 - d. That the structures can be repaired.
2. That the City Council hereby orders Owners to comply with the following requirements:
 - a. That the structures be vacated and be secured within (30) days; and
 - b. That the premises be cleaned of all weeds, trash and debris within (30) days; and
 - c. That the Owners of said Buildings are hereby ordered to comply with all requirements of the Resolution; and
 - d. The owners are advised that in order to obtain a new certificate of occupancy, both buildings and their service systems must be brought into compliance with the current codes.
 - e. That upon failure of the Owners to comply with this Resolution, any mortgagees, lienholder, and other persons having an interest in the property have an additional ten (10) days to vacate and secure the Building and maintain the buildings secure and clean the premises of all weeds, trash, and debris, until rehabilitated; and
3. That upon failure of the Owners to comply with this Order, the City of El Paso through its Director for Building Permits and Inspections may secure the Buildings and maintain the Building secure and clean the premises of all weeds, trash, and debris at its own expense, but for and on account of the Owners of said property; and

4. That said Owners shall become personally liable for all costs incurred by City in connection with securing and maintaining the Building secure and cleaning the premises of all weeds, trash and debris; and
5. That the costs incurred by the City in connection with securing and maintaining the Building secure and cleaning the premises of all weeds, trash, and debris shall become due and payable within thirty (30) days of the date of completion of the work and such cost shall be assessed as a lien against the property unless paid; and
6. That upon failure of the Owners to comply with this Order, one or all of the following actions will be taken:
 - a. The City may perform any and all work needed to bring the property into compliance with this order, at its own expense but for and on account of the Owners of said property, the cost of which shall be assessed as a lien against the property; and
 - b. That upon failure of the Owners to comply with this order the City Council may assess a civil penalty against the property Owners in an amount not to exceed \$1,000.00 a day for each violation or, if the Owners show that the property is the Owner's lawful homestead, in an amount not to exceed ten (10) dollars a day for each violation; and
 - c. That upon failure of the Owners to comply with this order, the Owners may be confined in jail as permitted by state law; and
7. That upon failure of the Owners, any mortgagees or lienholders to restore the Buildings so that they comply with all relevant City Code requirements, the City of El Paso, if applicable, may bring an action in District Court to request appointment of a receiver for the rehabilitation of said property pursuant to Section 214.003 of the Texas Local Government Code; and
8. The Owners, any mortgagees, or lienholders have a right to appeal these findings to a court of competent jurisdiction within ten (10) days after notice of this Resolution. The findings shall become final after ten (10) days of receipt of Notice; and
9. That any civil penalty or assessment imposed will accrue interest at a rate of ten (10) percent a year from the date of assessment until paid in full; and
10. That the City Clerk is ordered to cause copies of this Resolution to be served on the record Owners and all other persons having interest in the property as provided by law.

According to the real property records of El Paso County, you own the property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office no later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not.

Mr. Thomas Maguire, Building Permits and Inspections, presented the case to Council Members and gave the department's recommendation(s).

Ms. Ana Rosa Fernandez, representing the estate of Manuel Correra, Jr., requested that Council Members reject the department's recommendation for the condemnation. She answered questions from and responded to comments made by the Council Members.

Mr. Hector Correra, property owner, commented against the condemnation.

Ms. Teresa Garcia, Assistant City Attorney, provided legal advice.

Motion made by Representative Cushing, seconded by Representative Cook and unanimously carried to approve the above Resolution.

*Motion made, seconded and unanimously carried to appoint Nancy Rout, RN, MBA, to the City-County Board of Health by Mayor Joe Wardy.

RESOLUTION

WHEREAS, Socorro Independent School District is one of the fastest growing school districts in Texas; and

WHEREAS, enrollment in Socorro ISD reached 32,000 students in 2003, and will exceed 50,000 in less than 10 years; and

WHEREAS, the increase in Socorro ISD's student enrollment is a result of the growth in the community, which will be accelerated with the projected construction of more than 25,000 new homes in the next 10-15 years; and

WHEREAS, Socorro ISD's growth and development is a positive factor in the economic development of the El Paso community; and

WHEREAS, Socorro ISD must build new schools to accommodate the student enrollment growth; and

WHEREAS, Socorro ISD must maintain and enhance the quality facilities currently in the district; and

WHEREAS, Socorro ISD must continue to enhance the educational curriculum in order to provide a first class education for our children; and

WHEREAS, Socorro ISD has called a bond election for Jan. 24 2004 to address the facility needs of the district in order to provide a quality learning environment for all children;

THEREFORE BE IT RESOLVED, That the El Paso City Council encourages the voters of the Socorro Independent School District to vote in the Jan. 24th \$188.7 million bond election.

Please see discussion on page one.

Motion made by Representative Power, seconded by Representative Cook and unanimously carried to approve the above Resolution.

NOTE: This Resolution was discussed together with the presentation on the upcoming Socorro ISD's \$188.7 million bond election on January 24, 2004. [Linda East, Chair of Pro Socorro Schools Committee]

Motion made by Representative Cobos, seconded by Representative Cook and carried to authorize the Planning, Research & Development Department to initiate and process an application to release zoning conditions for property legally described as Lots 11, 12, and the North 8' of Lot 13, and the North 60' of the vacated alley, Block 31 (Parcel 1), Lots 17, 18, 19 and 20, Block 49 (Parcel 2), West 60' of Lot 11, and all of Lot 12, Block 49 (Parcel 3), Campbell Addition, El Paso, El Paso County, Texas.

AYES: Representatives Austin, Cushing, Cook, Power, Escobar, Rojas and Cobos
NAYS: Representative Lozano

Mr. Rudy Valdez, Chief Urban Planner, explained that the release of the zoning conditions pertained to property obtained by the El Paso Independent School District.

Motion made by Representative Cobos, seconded by Representative Austin and carried to authorize the Planning, Research & Development Department to initiate and process an application to release zoning conditions for property legally described as the East 54 feet of Lot 10, the East 54 feet of the North 11 feet of Lot 9, and the South 9 feet of the North 20 feet of Lot 9, Block 31, Campbell Addition, El Paso, El Paso County, Texas.

AYES: Representatives Austin, Cushing, Cook, Power, Escobar, Rojas and Cobos

NAYS: Representative Lozano

Representatives Lozano and Representative Cobos commented.

Mr. Rudy Valdez, Chief Urban Planner, explained that the release of the zoning conditions pertained to property obtained by the El Paso Independent School District.

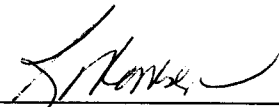
.....
Motion made by Representative Cook, seconded by Representative Cushing and unanimously carried to postpone three (3) weeks, until the City Council Meeting scheduled for February 3, 2004, the following executive session item: William McGrath, 03-C-255 (551.071).

Representative Power was not present for the vote.

.....
Motion made by Representative Cook, seconded by Representative Cushing and unanimously carried to adjourn this meeting at 3:41 p.m.

Representative Power was not present for the vote.

.....
APPROVED AS TO CONTENT:



Richarda Duffy Momsen, City Clerk

Attachment 1

Re: 18B



EDMUND G. ARCHULETA, P.E.

January 9, 2004

The Honorable Joe Wardy
City of El Paso Mayor
Two Civic Center Plaza
El Paso, Texas 79901

Re: Northwest Upper Valley Plan Recommendations - Plan for El Paso

Dear Mayor Wardy:

I have reviewed with my staff the proposed revisions to the Northwest Upper Valley Plan. I understand that Mayor and Council will consider these recommendations on January 13, 2004. I would suggest the following considerations for Mayor and Council as you finalize this development plan.

The plan as I understand encompasses the area bounded by the Rio Grande and the New Mexico State Line and between Country Club Road and Borderland Road. El Paso Water Utilities has reviewed and provided input during the development of this plan. However, we are concerned that one of the recommendations being considered will have negative impacts on water rights acquisition, watershed management and overall protection of the Mesilla Bolson.

The biggest concern we have is the lack of conversion of surface water rights from agricultural to municipal use that will occur with low density requirements. This past development practice allows current residents in the Valley who own larger lots to supplement their landscaping watering with the surface water rights that are apportioned to the property and are unwilling to give up their rights to the City. The proposed recommendations for more larger lots will inhibit the opportunity for El Paso Water Utilities to lease additional surface water rights for the benefit of the public. Acquiring additional surface water rights to expand our surface water use is still an integral part of long term water supply strategic planning.

Another concern is that if the density is so low that a developer is required to subdivide properties in the Upper Valley into less than two homes per acre, construction of septic tanks will prevail. The State of Texas Rules for Onsite Sewage Disposal (Title 30 Chapter 285.4 Facility Planning TAC) allows the installation of septic tank on a 1/2-acre

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RECYCLED

The Honorable Joe Wardy
January 9, 2004
Page 2

residential lot supplied by a public water service provider. The cost to install a sanitary sewer system with dewatering and pump stations on such a low density is cost prohibitive and would provide incentive to install a septic tank on a property that is 1/2-acre and larger. We foresee that the number of applications for water service without sanitary sewer service will rise. The proliferation of septic tanks and fields in the Upper Valley would have negative environmental impacts on the Mesilla Bolson aquifer. We strongly recommend all development be hooked up to the sanitary sewer system.

Over the last ten years, El Paso Water Utilities has had to expend several million dollars to extend sanitary sewer systems to areas where customers' septic systems have become economically inoperable such as the Pinckard Subdivision and properties along Westside Drive. Aside from the utility costs, there have been significant costs associated with pavement replacement and at times full street reconstruction.

El Paso Water Utilities recommends that the guidelines proposed for development within the 400-foot strip of land adjacent to Artcraft Road be followed for the majority of the bounded land. We believe recommending a minimum of 3.5 homes per gross acre will remove the possibility of installing septic tanks for residential developments. In addition, customers with 1/3-acre lots would be more receptive to leasing their surface water rights to El Paso Water Utilities.

I ask that you please consider and incorporate El Paso Water Utilities' comments as it relates to protecting the Mesilla Bolson aquifer and allows for increased surface water rights acquisition for municipal use. I am available to discuss our comments with you in more detail should you so desire.

Sincerely,



Edmund G. Archuleta, P.E.
General Manager

Cc: Jim Martinez, Chief Administrative Officer
Pat Adauto, Deputy CAO of Building and Planning Services
Public Service Board

Attachment 2

Written Abstract for Attachment to the Minutes of the City Council Agenda of
13 January 2004

RE: Regular Agenda Item 18 B

As a member of City Council, I am compelled to present, in writing, the following concerns that I have with respect to the changes that are anticipated in this agenda item for numerous, but not limited to, the reasons as shall be set forth in this abstract.

Background

The property that is being addressed is bounded by Country Club Road, Borderland Road, the Rio Grande River and the Texas/New Mexico border. It is commonly referred to as the "Upper Valley", and has seen consistent development over the last sixty plus years as the property has been converted from agricultural usage to municipal usage. More recently the northern section has been annexed by the City of El Paso.

The first definitive issue in this area concerns the conversion of Artcraft Road to a major arterial connecting Interstate 10 to the International port of entry at Santa Teresa, New Mexico. At that time the expansion of the road met with positive input.

As a consequence of two issues, i.e. the annexation of the property north and south of Artcraft Road by the City of El Paso and the Artcraft Road enhancements, residential development has become more prevalent in this area.

To date, there has been some new residential development in the area, and now City Council is faced with a small, but vocal, quasi-neighborhood group intent on limiting development in this area of the City of El Paso, by changing the already existing rules for development and establishing a new residential zoning category.

Noticeable Concerns

I first find the arguments as set forth by the proponents of the “new plan” to be lacking in any foundation seated in fact, reason or law, moreover, they appear to be seated in a somewhat parochial mind set that could easily be categorized as having some racial overtones.

Specifically, the “Upper Valley” has often been considered to allegedly represent the “affluent landed aristocracy” of El Paso, a matter which is open to conjecture.

I next find the arguments disingenuous to the extent that when these same individuals were given not one, but two separate opportunities to participate in the process of the development of the “Upper Valley”, i.e. the Artcraft Road improvements, and the plan for development in that area, they either were supportive or indifferent with regards to their own neighborhoods.

From a strictly legal perspective, it could be argued that since they had previously slept on their rights, they would be precluded from now attempting to take the proverbial second bite of the apple.

A careful analysis of the area in question will show that development north from Country Club Road has been a blend of R-2 and R-3 zoning, with R-3A zoning becoming apparent in limited areas, primarily as a consequence of the Artcraft Road improvements.

I personally have found the R-3A zoning to be somewhat overly permissive in this area, as is evidenced by my vote and subsequent actions when confronted with this issue in a previous City Council session. As a consequence of majority action by the Council, with the representative for the affected area voting in the minority, a proposed R-3A zoning was amended by concurrence of the parties to reflect an R-2A zoning for a large parcel. Interestingly, though this issue was widely publicized and the subject of a public hearing, none of the styled

neighborhood group “Save the Valley” were in attendance.

It was sometime after this zoning change that, in various forums, the styled “Save the Valley” group began to take any type of interest in the development in the Upper Valley.

One of the more vocal concerns on the part of this group concerns the “ambience” of the Upper Valley, i.e. a place full of trees, shade, open spaces, etc. However, a careful evaluation of the property along the Artcraft Corridor will show that the property is devoid of trees, and with the exception of some agricultural usage, that it is nothing more than barren land.

In reflection, I took the time to investigate the photos that are available in the public domain with reference to the properties north of Country Club Road at the turn of the past century. Interestingly, there were no trees, and basically what existed was some degree of agricultural development. Hence, it is very clear to any reasonable person that the “ambience” of the Upper Valley came as the result of development, something to which those in the “Save the Valley” group have all been beneficial, but now desire to deny other citizens.

Prior to the placement of the Elephant Butte and Caballo Dam/s, the area known as the Upper Valley was subject to flooding as would have been apparent in areas of Tennessee and Alabama before the completion of the Tennessee Valley Authority. Consequently, any sustained growth of trees would have not been possible.

In the past decade, resultant to meteorological changes, the amount of “irrigation water” available for agricultural utilization along the entire length of the Rio Grande River below Elephant Butte and Caballo has decreased and become more costly. Consequently, many of the existing owners of property in that area have and continue to opt to sell their agricultural land assets to land developers.

I personally take little to any exception to any property owner selling their property, and further, do not believe that others should be allowed to place unreasonable restrictions on future land usage at a level that would serve to diminish the value of the property in an unreasonable manner.

The amended plan as proposed serves effectively to accomplish this improper, if not illegal, end.

Further, in the plan as amended, it would appear that the City of El Paso is attempting to enforce, by ordinance, some type of "covenant" with respect to the socio-economic status of future residents of the area commonly referred to as the Upper Valley. Such is not right, and could easily be categorized as improper, if not illegal.

One interesting point to evaluate is the issue of the alleged "lack of schools" in the event that the current plan for development in the Upper Valley is allowed to go forward. This area is within the Canutillo School District, and as such is part of one of the most economically disadvantaged school districts in the State of Texas.

By restricting development as is set forth in the proposed ordinance, the ability of the school district to generate sufficient revenues from property taxes to fully fund the requirements will be thwarted, and consequently, for the benefit of a few, all Texans will suffer from continued disproportionate funding of the Canutillo School District.

But it must be noted, that though some members of styled "Save the Valley" group speak with authority concerning the alleged problems that would exist with respect to the school system, the voice is one of a displaced school board member, who could be utilizing this venue for future political purposes. (Said individual is a active a vocal part of this "Save the Valley" group, however, not a resident of the City of El Paso.) However, the authorized representatives of the Canutillo School District have not made any objections to the current plan.

Most notable, is the fact that if, in fact, the ordinance as proposed is adopted, that most of those who are most vociferously advocating its passage would be ones who would not be able to live in the Upper Valley, if the ordinance had been effect at the time they opted to reside in the Upper Valley.

In reviewing the “proposed document”, as can be seen at page 17 is the guidance that was given in this effort by the City Council. The plan as proposed, does not conform to the Council directive, except, in the fact that the original plan was amended.

At no time did the action/s of City Council anticipate that any proposed plan would be enforced retroactively with respect to development in the Artcraft Corridor. Do now do so would be not only improper, but also illegal.

Also, at no time did City Council direct any department to establish a new residential zoning designation, i.e. “Not more than two residences per gross acre”. Under the current R-1 zoning, the lot size is defined at “20,000 square feet”, and as proposed a new “Upper Valley” zoning would be created, i.e. 21,780 square feet per “gross acre”.

This ill conceived plan, based on the irrational rantings of a few, serves to defeat the purposes of the annexation of the property by the City, and further sets a precedent that ultimately can and will lead to disastrous effects.

Proposed Action

In reviewing this issue, it is clear that the original plan for development in the Upper Valley that is in place had, in my opinion, one flaw. The flaw was neither intentional, nor deliberate, in my opinion, and was centered around one definition in the Municipal Code.

Specifially, the plan that is in place made reference to “ . . . low density . . . ”

housing development. A careful review of the Municipal Code will find this definition at Title 20, Chapter 20.12 (R-1, R-2, R-2A, R-3 and R-3A Residential Districts), Section 20.12.010, stating, “The purpose of these districts is to provide for single-family detached residential development at moderately low densities together with such churches, recreational facilities, public uses and accessory uses as may be necessary or are normally compatible with residential surroundings.”

This is the only reference made in the Municipal Code with respect to “. . . low density . . .” residential areas, and as such, though it may have not been the intent of the framers of the existing plan to include the R-3A development in the plan, it is by nature part and parcel of same.

Based on knowledge and belief, it is my opinion that this flaw could be easily corrected, by simply amending the existing plan to allow for “. . . low density . . .” residential development in this area as is set forth in the R-1, R-2, R-2A, and R-3 densities, since these were all in existence in the area prior to adoption of the existing plan.

However, since several parcels have already been developed at the R-3A level, and many are in various stages of development, caution should be exercised in having this matter considered in a retroactive manner.

Conclusion

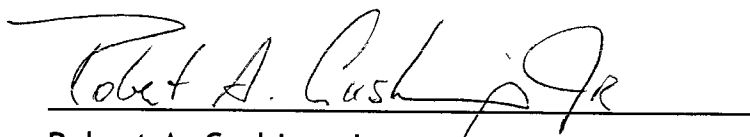
The ordinance that is being considered is at best inane, and would serve to test the common sense of any reasonable person.

It is inconsistent with the directive given to amend the existing plan, and based on knowledge and belief does not represent the input of all sectors of the affected community.

The logic, or lack of same, that is forwarded in the proposed plan has no basis in

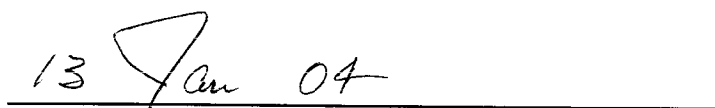
fact, reason or law, conversely forwards the self serving wishes of an extreme minority of the residents of the area commonly referred to as the Upper Valley. From a strictly statistical standpoint, the input of some sixty one residents in this huge area of El Paso could never serve as a basis for the proposed plan as presented.

Respectfully written and submitted for the record,

A handwritten signature in black ink, reading "Robert A. Cushing, Jr.", written over a horizontal line.

Robert A. Cushing, Jr.

Representative, District 2

A handwritten date "13 Jan 04" in black ink, written over a horizontal line.

January 13, 2004